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| 10/043,357 | 01/09/2002 | Jennifer Kellam | ARBP064 | 6337 |
| 21912 7590 06/27/2008 VAN PELT, YI & JAMES LLP 10050 N. FOOTHILL BLVD #200 CUPERTINO, CA 95014 | | | | |
| EXAMINER | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/043,357

Applicant(s)

KELLAM ET AL.

Examiner

CHUKS ONYEZIA

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/21/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicants' amendment and arguments filed on 03/21/2008 have been fully considered, and discussed below. It is noted that applicant has made no amendments. Therefore, claims 1-30 are pending and currently considered for examination.

Claim Rejections - 35 USC § 103

2. Claims 1-30 rejected under 35 U.S.C. 103(a) as being unpatentable over Blalock et al. U.S. Application Publication No. 2001/0047284 A1 (PTO-892 Reference A) in view of Sheth U.S. Application Publication No. 2001/0032170 A1 (PTO-892 Reference B).

3. As per claim 1, Blalock teaches a method of bidding to drive competition in an auction comprising:

- a. Receiving a plurality of bids from a plurality of bidders (Blalock paragraph[0059], each carrier can submit its bids, lane by lane, through the web site interface)
- b. distinguishing the bidders according to a subset of a parameter (Blalock paragraph[0144], there are one or more matrices which display the lowest rate-per-mile bids submitted by zone)

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- c. assigning at least one identifier to the bidders in each subset (Blalock paragraph[0145], it can be seen that state or regional codes are used to identify both the rows (origin) and the columns (destination) that comprise the matrix . . . a shipper can view the lowest mileage rate for a particular transportation zone as determined through bidding by participating carriers);
- d. the subset associated with the identifier being unknown to one or more of the bidders outside of the subset (Blalock paragraph[0061], a shipper may choose not to allow carriers to view information associated with other carrier bids, or the shipper may choose to post bids "publicly" via the web site to create a dynamic bidding process) examiner interprets that if a shipper can choose to limit a carrier from viewing bid information then it is implied that other, non selected, carriers would be able to view this information; and
- e. displaying a lowest bid with the identifier for each bidder (Blalock paragraph[0140], data columns provide specific information about the bids that have been submitted with respect to the various accessorials listed in the table . . . the "Min" is the minimum bid; Blalock

paragraph[0144], there are one or more matrices which display the lowest rate-per-mile bids submitted by zone). However, Blalock does not explicitly teach, subset known to each bidder within the subset. Sheth teaches creating an on-line private marketplace for a subset of vendors (see Sheth paragraph [0086]). Sheth also teaches the option of allowing vendors of the created subset to view other bids (Sheth paragraph [0090]). One of ordinary skill in the art would have found motivation to combine these teachings in this way for the purpose of establishing an exclusive group of vendors that are qualified and interested in bidding on projects(Sheth paragraph [0015]).

4. Claims 12, 13, and 22 are rejected using logic similar to that used above to reject claim 1.

5. As per claim 2, Blalock teaches the method of claim 1 as discussed above. Blalock further teaches, updating the lowest bids with new lowest bids from the bidders (Blalock paragraph[0146], selection of the "Submit Status Changes" button updates the status of each carrier with respect to the particular RFQ in the integral database)

6. As per claim 3, Blalock teaches the method of claim 1 as discussed above. Blalock further teaches, assigning comprises selecting different identifiers for each subset (Blalock paragraph[0145], it can be seen that state or regional codes are

used to identify both the rows (origin) and the columns (destination) that comprise the matrix . . . a shipper can view the lowest mileage rate for a particular transportation zone as determined through bidding by participating carriers)

7. As per claim 4, Blalock teaches the method of claim 1 as discussed above. Blalock further teaches, assigning comprises selecting different identifiers for each bidder, the different identifiers having a common characteristic with other identifiers assigned to the bidders in the subset (Blalock paragraph[0151], the first data columns labeled "SCAC" (Standard Carrier Alpha Code) and "Name," and categorized under the "Carrier" umbrella, provide identifying information; Blalock paragraph[0155], the "SCAC" and "Name" data associated with each carrier be represented in hyperlink form so that the shipper can select the hyperlink to be directed to further details about awards to the specified carrier)

8. As per claim 5, Blalock teaches the method of claim 1 as discussed above. Blalock further teaches, setting, in each subset, bid terms (Blalock paragraph[0139], If the shipper allows open bidding on the accessorial, the designation "Open" appears in the "Bid Rule" data column)

9. As per claim 6, Blalock teaches the method of claim 5 as discussed above. Blalock further teaches, setting comprises

establishing at least one of a reserve price, a historic price, a target price, time dependent variables, and bid strategies (Blalock paragraph[0102], the displayed data is but a preferred selection and layout of data which could be modified); the displayed data is notes as being time dependent variables such as contract period, preview time, bidding start time, award time, and acceptance time as shown in table B.

10. As per claim 7, Blalock teaches the method of claim 6 as discussed above. Blalock further teaches, establishing comprises providing time dependent variables including at least one of an opening time, a closing time, time extensions, and disclosures based on time (Blalock paragraph[0102], the displayed data is but a preferred selection and layout of data which could be modified); the displayed data is notes as being time dependent variables such as bidding start time, bidding stop time, preview time, and acceptance time as shown in table B.

11. As per claim 8, Blalock teaches the method of claim 1 as discussed above. Blalock further teaches, providing a parameter, the parameter being at least one of regions, payment terms, delivery terms, contract length, contract volume, material, and qualification status (Blalock paragraph[0143], Matrix bidding allows carriers participating in an RFQ to submit rate-per-mile

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bids for particular transportation zones, from one geographic area to another)

12. As per claim 9, Blalock teaches the method of claim 8 as discussed above. Blalock further teaches:

f. The parameter comprises regions (Blalock paragraph[0145], it can be seen that state or regional codes are used to identify both the rows (origin) and the columns (destination) that comprise the matrix);

g. The competition comprises global and regional competition (Blalock claim 12, wherein said computer network is the World Wide Web portion of the global Internet); and

h. The assigning comprises allotting a range of numbers to each region and giving a number to each bidder in the region (Blalock paragraph[0094], The PERSONAL PROFILE SCREEN includes a data entry window with multiple data entry fields, indicated generally by reference numeral 54, that allow the logged-in shipper to revise its personal profile data. In this particular embodiment, the following information may be revised) the information to be revised includes address, city, state, and postal code as depicted in table A and Figure 4-2. It is well known to those skilled in the art that postal code is an allotment of a

range of numbers denoting separate regions or subsets of a geographical area.

13. As per claim 10, Blalock teaches the method of claim 9 as discussed above. Blalock further teaches, displaying comprises illustrating the lowest bids to allow a comparison regionally and globally (Blalock paragraph[0144], there are one or more matrices which display the lowest rate-per-mile bids submitted by zone; also Blalock figure 10-2 illustrates the lowest bid as "Min")

14. As per claim 11, Blalock teaches the method of claim 1 as discussed above. Blalock further teaches, receiving comprises accepting bids for a plurality of lots (Blalock claim 1, wherein each of said carriers can submit bids on one or more of the plurality of transportation lanes comprising said request for quotation)

15. As per claim 14, Blalock teaches the system of claim 13 as discussed above. Blalock further teaches, parameter comprises at least one of regions, payment terms, delivery terms, contract length, contract volume, material, and qualification status (Blalock paragraph[0143], Matrix bidding allows carriers participating in an RFQ to submit rate-per-mile bids for particular transportation zones, from one geographic area to another)

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16. As per claim 15, Blalock teaches the system of claim 14 as discussed above. Blalock further teaches the subsets comprise:

- i. geographical areas for the regions (Blalock paragraph[0145], it can be seen that state or regional codes are used to identify both the rows (origin) and the columns (destination) that comprise the matrix);
- j. methods of payment for the payment terms (Blalock paragraph[0181] By selecting the "Remittance" hyperlink the shipper is re-directed to a screen displaying remittance contact information for the carrier);
- k. methods of delivery for the delivery terms (Blalock paragraph[0182], By selecting the "Equipment" hyperlink, the shipper is re-directed to a screen displaying detailed information about the carrier's equipment, including, but not limited to, number of tractors owned, leased trailers, total trailers, number of driving teams);
- l. times for the contract length (Blalock paragraph[0102], the displayed data is but a preferred selection and layout of data which could be modified; the displayed data is notes as being contract period as shown in table B);
- m. capacities for the contract volume (Blalock paragraph[0224], The third data entry field is labeled

"Cap." In this data entry field the carrier enters its capacity, i.e., the volume of truckloads the carrier can accommodate for the specified lane during a designated period of time);

n. types of material for the material (Blalock paragraph[0182], selecting the "Equipment" hyperlink, the shipper is re-directed to a screen displaying detailed information about the carrier's equipment, including, but not limited to, number of tractors owned, leased trailers, total trailers, number of driving teams); and

o. at least one of approval and certification for the qualification status (Blalock paragraph[0147], status of each carrier is an indication of its approved level of participation with respect to a particular RFQ . . . An "approved" carrier can fully participate in the RFQ).

17. As per claim 16, Blalock teaches the system of claim 13 as discussed above. Blalock further teaches, identifier comprises a number selected from a range of numbers assigned to the subset (Blalock paragraph[0094], The PERSONAL PROFILE SCREEN includes a data entry window with multiple data entry fields, indicated generally by reference numeral 54, that allow the logged-in shipper to revise its personal profile data. In this particular embodiment, the following information may be revised) the

information to be revised includes address, city, state, and postal code as depicted in table A and Figure 4-2. It is well known to those skilled in the art that postal code is an allotment of a range of numbers denoting separate regions or subsets of a geographical area.

18. As per claim 17, Blalock teaches the system of claim 13 as discussed above. Blalock further teaches, database stores bid terms for each subset (Blalock paragraph[0139], If the shipper allows open bidding on the accessorial, the designation "Open" appears in the "Bid Rule" data column)

19. As per claim 18, Blalock teaches the system of claim 17 as discussed above. Blalock further teaches, bid terms comprise at least one of a reserve price, a historic price, a target price, time dependent variables, and bid strategies (Blalock paragraph[0102], the displayed data is but a preferred selection and layout of data which could be modified); the displayed data is notes as being time dependent variables such as contract period, preview time, bidding start time, award time, and acceptance time as shown in table B.

20. As per claim 19, Blalock teaches the system of claim 13 as discussed above. Blalock further teaches, software updates the lowest bids with new lowest bids (Blalock paragraph[0146], selection of the "Submit Status Changes" button updates the

status of each carrier with respect to the particular RFQ in the integral database)

21. As per claim 20, Blalock teaches the system of claim 13 as discussed above. Blalock further teaches, identifier indicates a number of bidders in each subset (Blalock paragraph[0111], The next category of data columns relates to OTR transportation bids. Specifically, "Bids" refers to the number of bids that have been submitted by carriers with respect to a particular lane)

22. As per claim 21, Blalock teaches the system of claim 13 as discussed above. Blalock further teaches, identifier varies by subset and conceals a number of bidders in each subset (Blalock paragraph[0061], Specifically, a shipper may choose not to allow carriers to view information associated with other carrier bids)

23. As per claim 23, Blalock teaches the medium of claim 22 as discussed above. Blalock further teaches, parameter comprises at least one of regions, payment terms, delivery terms, contract length, contract volume, material, and qualification status (Blalock paragraph[0143], Matrix bidding allows carriers participating in an RFQ to submit rate-per-mile bids for particular transportation zones, from one geographic area to another)

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24. As per claim 24, Blalock teaches the medium of claim 22 as discussed above. Blalock further teaches:

- p. geographical areas for the regions (Blalock paragraph[0145], it can be seen that state or regional codes are used to identify both the rows (origin) and the columns (destination) that comprise the matrix);
- q. methods of payment for the payment terms (Blalock paragraph[0181] By selecting the "Remittance" hyperlink the shipper is re-directed to a screen displaying remittance contact information for the carrier);
- r. methods of delivery for the delivery terms (Blalock paragraph[0182], By selecting the "Equipment" hyperlink, the shipper is re-directed to a screen displaying detailed information about the carrier's equipment, including, but not limited to, number of tractors owned, leased trailers, total trailers, number of driving teams);
- s. times for the contract length (Blalock paragraph[0102], the displayed data is but a preferred selection and layout of data which could be modified; the displayed data is notes as being contract period as shown in table B);
- t. capacities for the contract volume (Blalock paragraph[0224], The third data entry field is labeled

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"Cap." In this data entry field the carrier enters its capacity, i.e., the volume of truckloads the carrier can accommodate for the specified lane during a designated period of time);

u. types of material for the material (Blalock paragraph[0182], selecting the "Equipment" hyperlink, the shipper is re-directed to a screen displaying detailed information about the carrier's equipment, including, but not limited to, number of tractors owned, leased trailers, total trailers, number of driving teams); and

v. at least one of approval and certification for the qualification status (Blalock paragraph[0147], status of each carrier is an indication of its approved level of participation with respect to a particular RFQ . . . An "approved" carrier can fully participate in the RFQ).

25. As per claim 25, Blalock teaches the medium of claim 22 as discussed above. Blalock further teaches, identifier comprises a number selected from a range of numbers assigned to the subset (Blalock paragraph[0094], The PERSONAL PROFILE SCREEN includes a data entry window with multiple data entry fields, indicated generally by reference numeral 54, that allow the logged-in shipper to revise its personal profile data. In this particular embodiment, the following information may be revised) the

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information to be revised includes address, city, state, and postal code as depicted in table A and Figure 4-2. It is well known to those skilled in the art that postal code is an allotment of a range of numbers denoting separate regions or subsets of a geographical area.

26. As per claim 26, Blalock teaches the medium of claim 22 as discussed above. Blalock further teaches, database stores bid terms for each subset (Blalock paragraph[0139], If the shipper allows open bidding on the accessorial, the designation "Open" appears in the "Bid Rule" data column)

27. As per claim 27, Blalock teaches the medium of claim 26 as discussed above. Blalock further teaches, bid terms comprise at least one of a reserve price, a historic price, a target price, time dependent variables, and bid strategies (Blalock paragraph[0102], the displayed data is but a preferred selection and layout of data which could be modified); the displayed data is notes as being time dependent variables such as contract period, preview time, bidding start time, award time, and acceptance time as shown in table B.

28. As per claim 28, Blalock teaches the medium of claim 22 as discussed above. Blalock further teaches, software updates the lowest bids with new lowest bids (Blalock paragraph[0146], selection of the "Submit Status Changes" button updates the

status of each carrier with respect to the particular RFQ in the integral database)

29. As per claim 29, Blalock teaches the medium of claim 22 as discussed above. Blalock further teaches, identifiers indicate a number of bidders in each subset (Blalock paragraph[0111], The next category of data columns relates to OTR transportation bids. Specifically, "Bids" refers to the number of bids that have been submitted by carriers with respect to a particular lane)

30. As per claim 30, Blalock teaches the medium of claim 22 as discussed above. Blalock further teaches, identifier varies by subset and conceals a number of bidders in each subset (Blalock paragraph[0061], Specifically, a shipper may choose not to allow carriers to view information associated with other carrier bids).

Response to Arguments

31. Applicant's arguments filed 03/21/2008 have been fully considered but they are not persuasive.

Applicant argues that:

Selecting participants from a list of known vendors and then optionally allowing all participants to view each other's bids is not the same as "assigning at least one identifier to the

bidders in each subset, the subset associated with the identifier being unknown to one or more of the bidders outside of the subset but known to each of the bidders within the subset".

Examiner responds that:

In the rejection of claim 1 examiner relies on Blalock paragraph [0145] for the "assigning at least one identifier to the bidders in each subset" and Sheth [0086] and [0090] for the creation of a private marketplace. It is of the examiner's interpretation that the creation of the private marketplace acts as a barrier to exclude bidders outside in the public marketplace.

Conclusion

32. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHUKS ONYEZIA whose telephone number is (571)270-1372. The examiner can normally be reached on Monday - Thursday 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/
Supervisory Patent
Examiner, Art Unit 3691

C. Onyezia 06/20/2008